APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,709	01/06/2006	Jurgen Schmidt	PD030076	1607

24498   7590   10/19/2007
JOSEPH J. LAKS, VICE PRESIDENT
THOMSON LICENSING LLC
PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543-5312

EXAMINER
RAHMAN, MOHAMMAD N

ART UNIT	PAPER NUMBER
2161	

MAIL DATE	DELIVERY MODE
10/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/563,709	SCHMIDT, JURGEN
	Examiner	Art Unit	
	Mohammad N. Rahman	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>06 January 2006</u>.

2a) ☐ This action is **FINAL**.　　2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-10</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-10</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>06 January 2006</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☒ All　b) ☐ Some * c) ☐ None of:

　　　1. ☒ Certified copies of the priority documents have been received.

　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)　Paper No(s)/Mail Date <u>01/06/2006</u>.

4) ☐ Interview Summary (PTO-413)　Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Detailed Action

Preliminary Amendment

The preliminary amendment filed on 01/06/2006 has been entered. Claims 1, 4-8, 10

have been amended.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2.   **Claims 1, 2, 4 and 8** are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

The claim 1, recites a method for decoding data stream, however, the body of the

claim does not recite any steps to be performed. In line 3-5, "the second substream

containing control information, wherein the multimedia data packets contain an

indication of the time when to be presented" only describes the present of the

substream but does not clearly mention the corresponding steps of the decoding data

packets.

The claim 8, also recites an apparatus for decoding data stream, however, the

body of the claim does not recite any steps to be performed. In line 5-6, "wherein the

first and second multimedia data packets are buffered" does not clearly describe the

corresponding steps for the procedure of the apparatus, which is being used in order to

buffer the multimedia data packets.

Furthermore, in claims 1, 2, 4 and 8, it's unclear whether the limitation inside the

() are part of the claims.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

> Claims to computer-related inventions that are clearly nonstatutory fall into the same general categories as nonstatutory claims in other arts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute "descriptive material. "Abstract ideas, Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759, or the mere manipulation of abstract ideas, Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457 58, are not patentable. Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but. is not limited to music, literary works and a compilation or mere arrangement of data (See MPE P se ct ion 2 106, IV, B, 1)

4.   **Claims 1-7** are rejected under 35 USC 101 because the claimed invention is

directed to non-statutory subject matter.

The claims are rejected as falling under the judicial exception of an abstract idea

which lacks a useful, concrete, and tangible result. A claimed series of steps or acts

that do not result in a useful, concrete, and tangible result are not statutory within the

meaning of 35 USC 101. In the instant case, the claims recite, "containing," "replacing,"

and "defining." However, no useful, concrete, and tangible result is claimed. For

example, "writing said data," "updating said data," "sending said data" being claimed at

the end of the claim may comprise a useful, concrete, and tangible result. Absent such

a result, however, the claims are not statutory.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are nonstatutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When <u>functional</u> descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming <u>non</u>functional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.").

Claim Rejection – 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

6.   **Claims 1-7** are rejected under 35 U.S.C. 102 (b) as being anticipated by

Fujinami (U.S. Patent Number: 5,502,573), herein referred to as Fujinami.

As to claim 1, Fujinami teaches, Method for decoding a data stream, the data

stream containing a first and a second substream (col.1 and lines 53-57), the first

substream containing first and second multimedia data packets and the second

substream containing control information (col. 3 and lines 12-14), wherein the

multimedia data packets contain an indication of the time when to be presented and are

decoded prior to the indicated presentation time, and wherein the first decoded

multimedia data packets are buffered at least until, after a further processing, they can

be presented in due time, and the second multimedia data packets are also buffered,

wherein the second multimedia data packets either replacing or being appended to the

first decoded multimedia data packets in the buffer (abstract, lines 1-16);

(Fujinami teaches, "The video buffer also is connected to a video

decoder which decodes the video data temporarily stored in the

video buffer, the operation of the video decoder being controlled

as a function of a comparison between the generated timing data

and the extracted video time data (abstract, lines 11-16)" and

"the video and audio data are demultiplexed from the pack

illustrated in FIG. 7, and supplied to respective video and audio

decoders (col.1 and lines 56-58)", which clearly describes that

the buffer contains the multimedia data packets and the data

stream is being decoded within a specific time.)

- "said control information containing first, second and third control data" at col. 3
  and lines 12-14;

(Fujinami teaches, "a control circuit 28, which may be a central

processing unit, coupled to data separator 21 to supply various

control command signals thereto", which interprets that the

buffer contains the control information and the control circuit

processes control data.)

- "the first control data (Length) defining the allocated buffer size" at col. 2 and
  lines 28-32;

(Fujinami teaches, "the error corrected digital data then is

supplied to ring buffer 4 which stores such data until a

predetermined amount is accumulated" which defines that for

allocating control data, the buffer size is predetermined)

- "the second control data (LoadMode) defining whether the second multimedia
  data packets are appended to the first multimedia data packets or replace them"
  at col. 12 and lines 50-54;

(Fujinami teaches, "the video decoder skips to the next unit of
video data to be loaded into video buffer 6A" which interprets
that the video decoder identifies, appends and loads the data
packets.)

- "and the third control data (StartLoadTime, StopLoadTime) defining one or more
  multimedia data packets to be buffered" at col. 1 and lines 28-35.

(Fujinami teaches, "a system clock reference SCR follows the PACK
START CODE and represents a time code corresponding to the time
at which the pack was recorded", since the control data contains,
data packets that includes start and stop load time.)

As to claim 2, Fujinami teaches, " method according to claim 1, wherein the

second control data (LoadMode) defines one of a plurality of operation modes, wherein

in a first mode buffering of multimedia data packets is performed when the value of the

first control data (Length) changes, and in a second and third mode the third control

data (StartLoadTime, StopLoadTime) are valid for specifying the multimedia data

packets to be buffered, wherein in the second mode the multimedia data packets

replace the buffer contents and in the third mode the multimedia data packets are

appended to the buffer contents" at col. 1 and lines 46-67 and col. 2 and lines 1-2 .

As to claim 3, Fujinami teaches, " method according to claim 2, wherein the

third mode has two variations, wherein in the first variation the buffering of multimedia

data packets stops when the buffer is full, and in the second variation previously

buffered data may be overwritten when the buffer is full" at col. 3 and lines 33-43 and

col. 3 and lines 43-53.

As to claim 4, Fujinami teaches, " method according to claim 1, wherein the

method is utilized in an instance of a processing node and wherein the first control data

(Length) defines the allocated buffer size at node creation time" at col. 8 and lines 26-

50.

As to claim 5, Fujinami teaches, " method according to claim 1, wherein labels

are attached to the buffered first and other multimedia data packets, and the packets

may be accessed through their respective label" at col. 1 and lines 46-53.

As to claim 6, Fujinami teaches, "method according to the claim 5, wherein a

label attached to the buffered data packets contains an index relative to the latest

received data packet" at col. 1 and lines 46-60.

As to claim 7, Fujinami teaches, "method according to claim 1, wherein the first

substream contains audio data and the second substream contains a description of the

presentation" at col. 1 and lines 43-46.

Claim Rejection – 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.   **Claims 8-10,** are rejected under 35 U.S.C. 102 (e) as being anticipated by Jebb et al. (U.S. Application Publication No. 2005/0120038 A1), herein referred to as Jebb.

As to claim 8, Jebb teaches, " apparatus for decoding a data stream, the data stream containing a first and a second substream, the first substream containing first and second multimedia data packets and the second substream containing control information, wherein the multimedia data packets contain an indication of the time when to be presented and wherein the first and second multimedia data packets are buffered, containing buffering means for said buffering of the first and the second multimedia data packets, wherein the second multimedia data packets may in a first mode replace and in a second mode be appended to the first multimedia data packets" at paragraph [0052], lines 1-10 and paragraph [0077], lines 1-6;

(Jebb teaches, "this will allow the client 40 to start decoding and presenting media to the user immediately at the point that data is received and decoded (paragraph [0052], lines 1-10)" and "buffered in the decoding buffer 41, it is necessary for decoding of data to be correctly timed (paragraph [0077], lines 1-6)" which clearly describes that the buffer contains the multimedia data packets and in a specific mode, the data stream is being decoded within a respective time.)

- "means for extracting from said control information first, second and third control data" at paragraph [0017], lines 1-7;

(Jebb teaches, "the data source including a plurality of encoded data streams" which interprets that the plurality of the control data is being extracted for streaming.)

- means for applying the first control data (Length) to define the allocated buffer size" at paragraph [0009], lines 1-7;

(Jebb teaches, "video stream match the average available bandwidth the receiver buffer size", since the buffer contains the control data according to it's size.

- "means for applying the second control data (LoadMode) to define whether the second multimedia data packets are appended to the first multimedia data packets or replace them" at paragraph [0085], lines 1-8 ; and

(Jebb teaches, "it must find a point in the intra stream, and start streaming from it", since the multimedia data in the packets are appended for streaming and the control data contains different mode of functions)

- means for applying the third control data (StartLoadTime, StopLoadTime) to define a multimedia data packet to be buffered (at paragraph [0102], lines 1-8) .

(Jebb teaches, "the server also needs to know the timestamp of the
data packet that the client is currently decoding and presenting"
since in order to multimedia data packet to be buffered, the
control data maintains a start and stop point of the loading
time.)

As to claim 9, Jebb teaches, " apparatus according to claim 8, further

comprising means for attaching labels to the buffered multimedia data packets, and

means for accessing, retrieving or deleting the packets through their respective label" at

paragraph [0110], lines 2-8.

As to claim 10, "apparatus according to claim 8, wherein the data stream is an

MPEG-4 compliant data stream" at paragraph [0006], lines 1-4.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Cotarmanac'h (US Application Publication No. 2006/0136440) discloses a

dependent data stream transmission procedure.

Otsuka et al. (US Patent No. 6,263,089) discloses a method and equipment for

extracting image features from image sequence.

Puri et al. (US Patent No. 6,148,026) discloses a method and apparatus for

coding video data permits coding of video information with optional, enhanced

functionalities.

Henry (US Patent No. 5,436,664) discloses a method for masking transmission errors of MPEG compressed pictures.
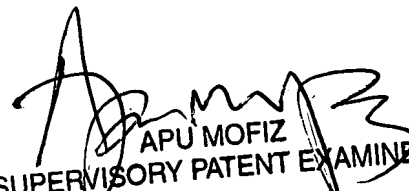
Contact Information

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad N. Rahman whose telephone number is 571-270-1631. The examiner can normally be reached on 7:30am - 5:00 pm, Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mofiz Apu M can be reached on 572-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MR   KBP

AU 2161

APU MOFIZ
SUPERVISORY PATENT EXAMINER